IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of   :   Gupta et al.

Serial No   :   09/747,647

Filed   :   December 22, 2000

For   :   Method and Apparatus for Reporting the Status
                               of Work in Progress

Group Art No.   :   3627

Examiner   :   McClellan, J.

CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10

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37 CFR 1.8(a)   **37 CFR 1.10**

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Commissioner for Patents
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APPEAL BRIEF PURSUANT TO 37 C.F.R. §§1.191 AND 1.192

Dear Sir:

        This Appeal Brief is being filed in furtherance of the Notice of Appeal faxed to

the Board of Patent Appeals on January 11, 2007.

1.   **REAL PARTY IN INTEREST**

The real party in interest is General Electric Company by way of the assignment recorded at reel 016212, frame 0534 from GE Medical Systems Global Technology Company, LLC, the Assignee of the above-referenced application by virtue of the Assignment to GE Medical Systems Global Technology Company, LLC, recorded on April 12, 2001, recorded at reel 011718, frame 0568.

2.   **RELATED APPEALS AND INTERFERENCES**

Appellant is unaware of any other appeals or interferences related to this Appeal. The undersigned is Appellant's legal representative in this Appeal. GE Medical Systems Global Technology Company, LLC, the Assignee of the above-referenced application, as evidenced by the documents mentioned above, will be directly affected by the Board's decision in the pending appeal.

3.   **STATUS OF THE CLAIMS**

Claims 1-21 are currently pending, and claims 1-21 are currently under final rejection and, thus, are the subject of this appeal.

4.   **STATUS OF AMENDMENTS**

Appellant has not submitted any amendments subsequent to the Final Office Action mailed on October 11, 2006.

5.   **SUMMARY OF CLAIMED SUBJECT MATTER**

Claim 1 sets forth a method for reporting status of work in progress that includes the step of periodically querying an electronic database 14 that contains data indicating an order number, a promise date, a request date, a shipment date, and a product category for a plurality of products/services offered (98, 102). Application, pg. 17, lns. 16-20. The method further provides comparing the promise dates and the request dates (114) and setting a proactive promise alert (116) if a promise date is later than a request date for a given order. Id., lns. 20-23. The method displays any proactive promise alerts with the order numbers for those given orders that have a promise date that is later than their respective request date. Id, pg. 18, ln. 1.

A computer-readable medium is set forth in claim 9, the computer-readable medium having stored thereon one or more computer programs. Id., pg. 18, lns. 4-5. The

computer program(s), when executed by one or more computers, causes the one or more computers to populate a database (14) with data (36) to include an order number, a promise date, a request date, a shipment date, and a product category (20-28) for a plurality of orders. Id. lns. 5-10. The one or more computers are further instructed to periodically query the database (14) and compare promise dates to request dates (114). Id., lns. 10-12. The one or more computers are further instructed to set a proactive alert if the promise date is later than a request date (114a), and set a reactive alert if the shipment date exists and the request date is less than a user-defined number of days prior to a current date (122). Id. lns. 12-17. The computer then displays any promise and shipment alerts organized by product category and type of alert (126). Id., lns. 17-18.

Claim 15 sets forth a computer data signal representing a sequence of instructions that, when executed by one of more processors, causes the one or more processors (16) to populate a database (14) with data (20-28) including an order date indicating a date an order is initially made, a request date indicating a date when a customer requests delivery of the order, a shipment date, when available, indicating a date when actual shipment will occur, and a product/service category for each order for a product/service (98, 102). Id., pg. 18, ln 18 to pg. 19, ln. 3. The one or more processors (16) are further instructed to query the database (14) and compare promise dates to request dates for each order (114), and to check for the entry of a shipment date for each order (118). Id., pg. 19, lns. 3-5. The one or more processors (16) are then instructed to set a proactive alert (116) if any promise date is later than a request date (114a), and to set a reactive alert if a shipment date exists for an order and the request date is less than a user-defined number of days prior to a current date (120). Id., lns. 5-8. The one or more processors (16) are lastly instructed to display all proactive and reactive alerts by product/service category and type of alert (126). Id., lns. 8-10.

6.   **GROUNDS OF REJECTION**

Claim 4 stands rejected under 35 U.S.C. §112, second paragraph. Claims 15-21 stand rejected under 35 U.S.C. §101. Claims 1-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Martin et al. (USP 5,809,479) in view of Dietrich et al. (USP 6,032,121) and further in view of Schoenberg et al. (USP 6,322,502).

7.   <u>**ARGUMENTS**</u>

<u>**Rejection under 35 U.S.C. §112**</u>

CLAIM 4

The Examiner rejected claim 4 under 35 U.S.C. §112, second paragraph, stating that "[i]n claim 4, the recitation 'displaying the proactive promise alerts with the order numbers by product category and type of alert' renders the claim indefinite." <u>Office Action, October 11, 2006, p.</u> 3. The Examiner further asserted that it was unclear whether the subject matter of claim 4 refers to different proactive promise alerts or a proactive promise and reactive shipment alert. <u>Id</u>. Applicant respectfully disagrees. That is, claim 4 depends from claim 1 and further defines one of the steps of the method of claim 1. Claim 1 calls for, in part a method for reporting status of work in progress including the step of displaying proactive promise alerts with the order numbers for those given orders that have a promise date that is later than their respective request date. Claim 4 further calls for, in part, displaying the proactive promise alerts with the order numbers by product category and type of alert. No reactive shipment alert is called for in claim 1 as the Examiner asserts, and thus, there is no confusion as to what claim 4 calls for. As such, claim 4 in <u>not</u> indefinite as the Examiner asserts and it is respectfully requested that the Board withdraw the rejection of claim 4 under 35 U.S.C. §112, second paragraph.

<u>**Rejection under 35 U.S.C. §101**</u>

CLAIMS 15-21

The Examiner rejected claims 15-21 under 35 U.S.C. §101 as being directed to non-statutory subject matter, stating that "[t]he system contains data structures (signals) not claimed as embodied in computer-readable media and therefore are descriptive material per se and are not statutory because they are not capable of causing function change is a computer." <u>Office Action, supra at 3</u>. Appellant respectfully disagrees. As stated by the Examiner, claim 15 is directed to "data structures", and as such, calls for a manufacture or composition of matter that falls within one of the four enumerated categories of statutory subject matter.

Claim 15 calls for a computer data signal representing a sequence of instructions that, when executed by one or more processors, causes the one or more processors to execute a plurality of acts. As the computer data signal called for in claim 15 is a "data structure" that falls within one of the four enumerated categories of statutory subject matter as a manufacture or composition of matter, claim 15 constitutes patentable subject matter so long as it has a practical utility. See MPEP §2106(IV)(B). In order to provide a *prima facie* case of unpatentablility, the Examiner must thus show that claim 15 does not have a practical utility. Id. The Examiner has failed to do so here, but rather, has merely asserted that the computer data signal(s) "are descriptive material per se and are not statutory because they are not capable of causing function change is a computer." Office Action, supra at 3. This is clearly not the case, as the computer data signal called for in claim 15 represents a sequence of instructions that, when executed by one or more processors, causes the one or more processors to execute a plurality of acts. That is, the computer data signal causes the one or more processors to, in part, populate a database, query the database, set a proactive alert, set a reactive alert, and display all proactive and reactive alerts. Thus, the computer data signal called for in claim 15 provides a practical utility in that it produces a "useful, concrete and tangible result." State Street Bank v. Signature Financial Group, 149 F.3d 1368, 1373-74 (Fed. Cir. 1998).

In light of the foregoing, Applicant believes that claim 15, and the claims dependent therefrom, are directed to statutory subject matter. As such, Applicant respectfully requests the Board to withdraw the rejection under §101.

Rejection under 35 U.S.C. §103(a) over Martin et al. (USP 5,809,479) in view of Dietrich et al. (USP 6,032,121) and Schoenberg et al. (USP 6,322,502)

CLAIM 1

As discussed in detail below, the Examiner has improperly rejected the pending claims. The Examiner has misapplied long-standing and binding legal precedents and principles in rejecting the claims under §103(a) of Chapter 35 of the United States Code.

Contrary to the Examiner's assertion, Appellant respectfully disagrees that the art of record supports a 35 U.S.C. §103(a) rejection of the present claims. The burden of

establishing a *prima facie* case of obviousness falls on the Examiner. MPEP §2142. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. ACS Hospital Systems, Inc. v. Montefiore Hospital, 732 F.2d 1572, 1577, 221 U.S.P.Q. 929, 933 (Fed. Cir. 1984). Accordingly, to establish a *prima facie* case, the Examiner must not only show that the combination includes each and every element of the claimed invention, but also provide "a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). That is, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP §2143.01. "The fact that references can be combined or modified is not sufficient to establish prima facie obviousness." Id. (emphasis added). When prior art references require a selected combination to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gained from the invention itself, i.e., something in the prior art as a whole must suggest the desirability, and thus the obviousness, of making the combination. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 5 U.S.P.Q.2d 1434 (Fed. Cir. 1988).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP §2143.

Appellant believes that a *prima facie* case of obviousness cannot be made based on the art of record because, as will be shown below, (**I**) the references are directed to very different purposes and therefore, there is no motivation to combine these references in a way done so by the Examiner, other than Appellant's own teaching; (**II**) the

combination would not have a reasonable expectation of success because the combination would not result in the same, or even a similar system as that presently claimed; and (**III**) all the elements of the present claims are <u>not</u> present in the references. The Examiner, as will be shown below, has failed to establish each of the three separate and distinct criteria necessary to support a §103(a) rejection.

The Examiner rejected claims 1 under 35 U.S.C. §103(a) as being unpatentable over Martin et al. in view of Dietrich et al. and further in view of Schoenberg. The Examiner admitted that "Martin fails to disclose setting a proactive alert if a promise date is later than a request date for a given order and displaying the proactive alerts with the order numbers" and that "[i]f there is discrepancy between the promise date and request date, Martin merely recognizes the discrepancy and reschedules (see column 3, line 56 – column 4, line 23)." <u>Office Action, supra at 4</u>. The Examiner thus applied Dietrich et al., stating that "Dietrich teaches the use of method of 'proactive' planning (as required by claim 1) in real-time (as required by claim 5) to provide advance warnings (see column 2, lines 58-61; see also column 6, lines 25 – column 7, line 14)." <u>Id</u>.

The Examiner went on to state that "[t]he combination of Martin and Dietrich disclose all the limitations as set forth above but fail to explicitly disclose data related to product category of products or services, and setting a reactive alert if a shipment date exists and the request date is less than a user defined number of days prior to a current date." <u>Id. at 5</u>. The Examiner thus applied Schoenberg et al. stating that "Schoenberg teaches the entry and monitoring of action items [and] the use of reactive alerts (see column 5, lines 39-48)" and that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Martin/Dietrich with reactive alerts as taught by Schoenberg, because the use of reactive alerts are helpful management tools for correcting problems when undesired activities have already occurred." <u>Id</u>.

(I) Lack of motivation to combine references

Claim 1 calls for, in part, a method of reporting status of work in progress which includes the steps of comparing a promise date and a request date, setting a proactive promise alert if a promise date is later than a request date for a given order, and displaying the proactive promise alerts with the order numbers for those given orders that

have a promise date that is later than their respective request date. The art of record fails to teach or suggest such a process. In order to support a rejection under 35 U.S.C. §103(a), "there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." MPEP §2142.

With respect to Martin et al., the Examiner admitted that "Martin fails to disclose a proactive promise alert" and that "Dietrich teaches the use of method of 'proactive' planning." Office Action, supra at 4. The Examiner further stated that, "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Martin with the proactive warning (alert) taught by Dietrich, because an early warning system reduces the chance that undesired events will occur." Id. at 5. Such a conclusion is only derived from Appellant's own application – it is Appellant's invention.

The rescheduling of Martin et al. subjects the customer to accept a delivery date that is later than a requested delivery date. "The customer-expected delivery date is communicated to the customer, which then uses this date for purposes of on-time measurements." Martin et al., col. 4, lns. 41-44. That is, there is no alert but simply a rescheduling and a customer is expected to tolerate delivery irregularities and use such irregularities to gauge supplier performance. There is no need or motivation to generate or display any alert in the system of Martin et al. A scheduler, when scheduling a delivery after a customer expected date, already knows that a delivery will be late. Martin et al., col. 3, lns. 61-66. In short, there is no motivation to provide an alert for that which is already known.

With respect to Dietrich et al., the Examiner stated that, "Dietrich teaches the use of a method of 'proactive' planning (as required by claim 1) in real-time (as required by claim 5) to provide advance warnings (see column 2, lines 58-61; see also column 6, lines 25 - column 7, line 14)." Office Action, supra at 4. Appellant does not necessarily disagree that Dietrich et al. teaches a method of proactive planning, however, (1) it does not teach proactive alerts and (2) there is no motivation in the art of record to combine the references in the manner done by the Examiner.

Dietrich et al. discloses a method of proactive <u>planning</u>, not proactive alerting. That is, the system of Dietrich et al. calls for generating a new plan if an event is not satisfiable by the current plan. Dietrich et al. states that "a proactive planning methodology can use information about changes in the input data used for planning to determine when a next <u>plan</u> should be produced." <u>Dietrich, et al., col. 2, ln. 66 to col. 3, ln. 2 (emphasis added)</u>. Dietrich et al. further states that "while the first method would typically be used to determine if a <u>new plan</u> should be generated immediately, this second method is used to determine the most appropriate time to begin the next planning process, that is, to schedule the next planning event." <u>Dietrich et al., col. 8, lns. 40-44</u>. That is, if there is a potential failure of the present plan, Dietrich et al. merely teaches <u>scheduling</u> a planning event either immediately or sometime in the near future.

The systems of Dietrich et al. and Martin et al. are variants of one another. They each address delivery performance either through proactive plan generation as in Dietrich et al. or result orientated analysis such as the system of Martin et al. If operation in accordance with the system of proactive planning of Dietrich et al. were feasible, it would render the on-time performance system of Martin et al. useless. That is, by always having a newly generated plan schedule, Dietrich et al. schedules planning events to attempt to prevent missed shipments and Martin et al. monitors and tracks on-time delivery performance. Dietrich et al. suggests scheduling a new scheduling event when a plan cannot be satisfied, whereas Martin et al. teaches notifying users of late deliveries for gauging on-time delivery performance. The combination thus defeats the purpose of the reference. Additionally, this is <u>not</u> what is claimed in claim 1 nor does the art of record suggest or contain the motivation for combining the references in the manner done by the Examiner.

Beyond the lack of motivation to combine Martin et al. and Dietrich et al., there also is no motivation to further combine Schoenberg et al. therewith. Schoenberg et al. discloses a medical information system that receives patient data and information from various sources and displays such information in a variety of formats for use by members of a medical team. *See* <u>Schoenberg et al. Abstract</u>. Schoenberg et al. discloses generating operational reminders for each action item that is transmitted between

different members of a patient's medical treatment team. *See* Schoenberg et al. col. 5, lns. 40-42. Schoenberg et al. further discloses that the system permits the entry of confirmatory information by respective members of a patient's medical treatment team and further, that if a treatment, i.e. medication, is not delivered as prescribed by the patient's doctor, an alarm is indicated to notify the medical team that an order, i.e. medicating of a patient, has not yet been carried out. *See* Schoenberg et al. col. 5, lns. 43-48.

The system of Schoenberg et al. provides for intercommunication between a plurality of individual healthcare personnel who may be associated with a specific patient. *See* Schoenberg et al. col. 6, lns. 13-37. As a patient's primary physician determines a medication regiment for the patient, the patient's proscribed medication regiment is input into the system and communicated to the pharmacist who distributes the medications, and the resident assistants or nurses who administer the proscribed medications to the patient. Id.

Unrelated to Schoenberg et al., Martin et al. discloses a system of tracking and reporting on-time delivery performance of goods. *See* Martin et al., Title. As stated in MPEP §2142, to support a rejection under 35 U.S.C. §103(a), "there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." MPEP §2142. The unrelated subject matter of these references is the first indication of the lacking of any motivation to combine the references. Additionally, and as argued above, Martin et al., fails to teach or suggest any alert and, in requiring the scheduling of a planning event when a plan cannot be satisfied, teaches away from any alert related to the non-satisfiable status of the plan. That is, a subsequent planning event will be scheduled regardless if all events on the schedule are satisfiable or multiple of the events are non-satisfiable.

The Examiner maintained that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Martin/Dietrich with reactive alerts as taught by Schoenberg, because the use of reactive alerts are helpful management tools for correcting problems when undesired activities have already occurred" and that

"in this case, Dietrich notifies a scheduler to reschedule." Office Action, supra at 5. Again, the Examiner has not chosen a reference between Martin et al. and Dietrich et al. because neither shows what the Examiner contends. Appellant does not necessarily disagree that combining reactive and proactive alerts is beneficial to system operations; however, such disclosure is only in Appellant's filing and is not taught or suggested in the art of record. Additionally, such a conclusion requires that the system of Dietrich et al. not perform as it was intended.

Dietrich et al. discloses scheduling a planning event if a task is unable of completion with the present schedule. Dietrich et al., Abstract. That is, there is no need or motivation to combine any alert disclosed by Schoenberg et al. with either of the systems of Martin et al. or Dietrich et al. as both the systems of Martin et al. and Dietrich et al. present functions which, only if they do not perform as intended, would require a reactive alert. The Examiner's interpretation requires the conclusion that one of ordinary skill in the art would appreciate that the systems of Martin et al. and Dietrich et al. will not perform as intended or disclosed and therefore would benefit from a reactive alert. As stated in MPEP §2143.01.V, "if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification." MPEP §2143.01.V. Accordingly, as the Examiner's combination would require that the systems of Martin et al. and Dietrich et al. not perform as intended, there is no motivation to combine any alert which may be disclosed in Schoenberg et al. therewith.

(II) Lack of reasonable expectation of success

The second independent element required to support a 35 U.S.C. §103(a) rejection is that there must be a reasonable expectation of success in combining the references to obtain the claimed invention. MPEP §2142. There is no such reasonable expectation of success in the present case. Claim 1 calls for, in part, a method of reporting status of work in progress which includes the steps of comparing a promise date and a request date, setting a proactive promise alert if a promise date is later than a request date for a given order, and displaying the proactive promise alerts with the order numbers for those given orders that have a promise date that is later than their respective request date. That

is, the method of claim 1 defines a process wherein only those orders that have been proactively determined to be non-deliverable by their respective request dates have a proactive alert associated therewith. The combination of Dietrich et al. in view of Martin is incapable of providing such an alert.

Even assuming that there is the requisite motivation to combine the teachings of the cited references, such a combination is incapable of operating in accordance with the method called for in claim 1. That is, Dietrich et al. teaches "us[ing] information about changes in the input data used for planning to determine when <u>a next plan should be produced</u>." <u>Dietrich, et al., col. 2, ln. 66 to col. 3, ln. 2 (emphasis added)</u>. That is, a planning event is scheduled wherein the plan, i.e. all of the pending orders, is reviewed and updated. Martin et al. merely determines and records delivery status performance. The combination of the teachings of the references leaves a disjoint between reporting and displaying a planning event and the reporting of delivery performance. The combination of the two systems is incapable of reporting the status of work-in-progress because one system, Dietrich et al., is process focused and the other system, Martin et al., is customer performance focused.

The addition of Schoenberg et al. does not correct the deficiencies of the combination of Martin et al. and Dietrich et al. or add to the expectation of success in achieving the current invention. Schoenberg et al. discloses a medical information system that receives patient data and information from various sources and displays such information in a variety of formats for use by members of a medical team. <u>See Schoenberg et al., Abstract</u>. Schoenberg et al. discloses generating operational reminders <u>for each action item</u> that is transmitted between different members of a patient's medical treatment team. <u>See Schoenberg et al. col. 5, lns. 40-42, (emphasis added)</u>. A reminder generated from every action item can hardly be considered an "alert" when the "alert" indicates that an ordinary action has occurred. Schoenberg et al. further discloses that the system permits the entry of confirmatory information by respective members of a patient's medical treatment team and further, that if a treatment, i.e. medication, is not delivered as prescribed by the patient's doctor, an alarm is indicated to notify the medical team that an order, i.e. medicating of a patient, has not yet been carried out. <u>See</u>

<u>Schoenberg et al., col. 5, lns. 43-48</u>. Furthermore, the system of Schoenberg et al. does not include any request dates. Appellant is unaware of any medicinal distribution system wherein the patient -- i.e. the customer of Schoenberg et al. -- requests a time of medication. Because the doctor dictates when the patient will be medicated, "request dates" are wholly absent in this reference. <u>See Schoenberg et al. col. 5, lns. 38-48</u>.

Assuming that the systems of Martin et al. and Dietrich et al. are combinable with the medical information of Schoenberg et al., the resulting combination does not include a reasonable likelihood of success of achieving the present invention. If an alert is generated for every order of Martin et al., as suggested by the preset mechanical reminders of Schoenberg et al., then after the scheduler of Martin et al. reviews the orders, and he moves an order so that the promise date is later than a request date. The system would then immediately generate an alert, according to Schoenberg et al., to alert the very scheduler who moved the data just seconds before. Since the scheduler already knows that the delivery date is after the customer-requested delivery date, the scheduler does not need an alert and, in fact, it would hinder his performance by requiring that he now must clear an alert of the condition he just created. <u>*See* Martin et al. col. 3, ln. 61 to col. 4, ln. 1</u>.

The combination of the disclosures of the references would provide a system where "alerts" are generated for ordinary action items. A person of ordinary skill in the art would readily appreciate that indications of normal operational conditions are not alerts. Furthermore, combining the reminder of Schoenberg et al. with the tracking system of Martin et al. and the planning system of Dietrich et al. results in a system where planning events are intermittently scheduled and non-satisfaction of a planning event is recorded and reported to a customer. Such a system is not what is presently claimed and such a system is incapable of achieving the benefits of the present system. As such, even combining the references in the manner suggested by the Examiner does not create a system that can report the status of work in progress on a particular product/order basis as called for in the present claims. The present invention improves upon the shortcomings of these cited references.

(III) Lack of references teaching, showing, or disclosing all the elements of the present claims

Claim 1 calls for, in part, a method of reporting status of work in progress which includes the steps of comparing a promise date and a request date, setting a proactive promise alert if a promise date is later than a request date for a given order, and displaying the proactive promise alerts with the order numbers for those given orders that have a promise date that is later than their respective request date. The Examiner maintained that "Martin discloses a method of reporting status of work in progress … [and] … fails to disclose setting a proactive promise alert if a promise date is later than a request date for a given order and displaying the proactive alerts with the order number." Office Action, supra at 4.

With respect to Martin et al., the Examiner stated that "[i]f there is a discrepancy between a promise date and request date, Martin merely recognizes the discrepancy and reschedules (see column 3, line 56 – column 4, line 23)." Id. This rescheduling subjects the customer to accept a delivery date that is later than a requested delivery date. As disclosed in Martin et al., "The customer-expected delivery date is communicated to the customer, which then uses this date for purposes of on-time measurements." Martin et al., col. 4, lns. 41-44. That is, there is no alert but a notification of a rescheduling, and a customer is simply expected to tolerate delivery irregularities and use such irregularities to gauge supplier performance. In the current application the proactive alert is intended for the manufacturer to affirmatively take corrective steps. This is indicated by the fact that the claim includes the step of displaying multiple proactive alerts, indicated by the plural form of alerts in claim 1. Each of the alerts are displayed with the order number for those orders that have a promise date that is later than an associated request date thereby allowing corrective action. This is in stark contrast to the references cited by the Examiner.

Martin et al. does not disclose the generation of any alert as called for in claim 1 nor is there a need or motivation to generate or display any alert in the system of Martin et al. A scheduler, when he schedules a delivery after a customer expected date, already knows that a delivery will be late. Martin et al., col. 3, lns. 61-66. One of ordinary skill

in the art would appreciate that there is no alert, or motivation to provide an alert, for that which is already known.

With respect to Dietrich et al., the Examiner stated that "Dietrich teaches the use of a method of 'proactive' planning (as required by claim 1) in real-time (as required by claim 5) to provide advance warnings (see column 2, lines 58-61; see also column 6, lines 25 - column 7, line 14)." Office Action, supra at 4. The system of Dietrich et al. calls for generating a new plan if an event is not satisfiable by the current plan and states that "a proactive planning methodology can use information about changes in the input data used for planning to determine when a next plan should be produced." Dietrich, et al., col. 2, ln. 66 to col. 3, ln. 2. Dietrich et al. further states that "while the first method would typically be used to determine if a new plan should be generated immediately, this second method is used to determine the most appropriate time to begin the next planning process, that is, to schedule the next planning event." Dietrich et al., col. 8, lns. 40-44, (emphasis added). Dietrich et al. discloses that if there is a potential failure of the present plan, a planning event is scheduled either immediately or sometime in the near future.

Claim 1 does not call for scheduling or conducting a planning event as disclosed by Dietrich et al. Claim 1 calls for setting a proactive alert if a promise date is later than a request date for a specific order and displaying alerts with the order numbers for those orders that have a promise date that is later than their respective request date. That is, the method of claim 1 both identifies and displays those orders which cannot be delivered according to a present schedule. The system of Dietrich et al. indicates that a schedule needs to be generated and does not isolate and display those orders which have the potential of being delivered late as called for in claim 1.

With respect to the inclusion of Schoenberg et al. in the rejection of claim 1, the Examiner seems to rely on the reference for teaching "the entry and monitoring of action items, such as, orders for drugs or other treatments." Office Action, supra at 5. While Appellant does not necessarily disagrees with this, the teachings of Schoenberg et al. in this regard do nothing to overcome the deficiencies of Martin et al. and Dietrich et al. That is, the further combination of Schoenberg et al. with the other cited references still results in a failure to teach or suggest all the elements called for in claim 1.

For all the reasons set forth above, Appellant believes that the art of record fails to establish each requirement, as required under MPEP §2142, of substantiating a 35 U.S.C. §103(a) rejection of claim 1. As the art of record lacks the motivation to combine the references in the manner done by the Examiner, lacks a reasonable likelihood of success, and fails to teach or suggest each and every element of claim 1, Appellant believes claim 1, and those claims that depend therefrom, are patentably distinct over the art of record. Appellant believes claims 2-8 are in condition for allowance at least pursuant to the chain of dependency.

CLAIM 9

Claim 9 calls for, in part, a computer-readable medium having stored thereon one or more computer programs that, when executed by one or more computers, causes the one or more computers to set a proactive alert if a promise date is later than a request date, set a reactive alert if the shipment date exists and the request date is less than a user-defined number of days prior to a current date, and display any promise and shipment alerts by product category and type of alert. The art of record does not disclose, teach, or suggest such a system.

(I) Lack of motivation to combine references

As set forth above with respect to claim 1, there is no motivation to combine the cited references in the manner done so by the Examiner. The systems of Dietrich et al. and Martin et al. are variants of one another. They each address delivery performance either through proactive plan generation as in Dietrich et al. or result orientated analysis such as the system of Martin et al. If operation in accordance with the system of proactive planning of Dietrich et al. were feasible, it would render the on-time performance system of Martin et al. useless. That is, by always having a newly generated plan schedule, Dietrich et al. schedules planning events to attempt to prevent missed shipments and Martin et al. monitors and tracks on-time delivery performance. Dietrich et al. suggests scheduling a new scheduling event when a plan cannot be satisfied, whereas Martin et al. teaches notifying users of late deliveries for gauging on-time delivery performance. The combination thus defeats the purpose of the references.

As relates to the combination of Schoenberg et al. with Martin et al. and Dietrich et al., the unrelated subject matter of these references is indication of the lacking of any motivation to combine the references. Furthermore, Dietrich et al. discloses scheduling a planning event if a task is unable of completion with the present schedule, and there is no need or motivation to combine any alert disclosed by Schoenberg et al. with either of the systems of Martin et al. or Dietrich et al., as both the systems of Martin et al. and Dietrich et al. present functions which, only if they do not perform as intended, would require a reactive alert. The Examiner's interpretation requires the conclusion that one of ordinary skill in the art would appreciate that the systems of Martin et al. and Dietrich et al. will not perform as intended or disclosed and therefore would benefit from a reactive alert. Accordingly, as the Examiner's combination would require that the systems of Martin et al. and Dietrich et al. not perform as intended, there is no motivation to combine any alert which may be disclosed in Schoenberg et al. therewith.

(II) Lack of reasonable expectation of success

Claim 9 calls for, in part, one or more computer programs that periodically query a database and compare promise dates to request dates, set a proactive alert if the promise date is later than a request date, set a reactive alert if the shipment date exists and the request date is less than a user-defined number of days prior to a current date, and display any promise and shipment alerts by product category and type of alert. The Examiner's suggested combination lacks any reasonable expectation of success in providing the claimed invention from the disclosures of the references in the combination. As argued above with respect to claim 1, there is no reasonable likelihood of success from combining the teachings of Martin et al and Dietrich et al. in creating a work in progress monitoring system as defined in the present claims. The addition of Schoenberg et al. to the combination thereof does not increase the expectation of success.

Martin et al. teaches a method of tracking and reporting on-time delivery status, or delivery performance. <u>Martin et al., Abstract</u>. Accordingly, a product must already be complete, i.e. no longer work in progress, if <u>delivery</u> status or <u>delivery</u> performance can be determined. Dietrich et al. discloses a system of maintaining a schedule based on changing process parameters. <u>Dietrich et al., Abstract</u>. That is, if a scheduled work in

progress is not going to be completed by a target date, a planning event is scheduled to update a processing schedule. Dietrich et al., col. 2, lns. 6-18. Martin et al. merely determines and records delivery status performance. The combination of the teachings of the references leaves a disjoint between reporting and displaying a planning event and the reporting of delivery performance. The combination of the two systems is incapable of reporting the status of work-in-progress because one system, Dietrich et al., is process focused and the other system, Martin et al., is customer performance focused.

Schoenberg et al. discloses generating operational reminders for each action item that is transmitted between different members of a patient's medical treatment team. See Schoenberg et al. col. 5, lns. 40-42, (emphasis added). A reminder generated from every action item can hardly be considered an "alert" when the "alert" indicates that an ordinary action has occurred. If an alert is generated for every order of Martin et al., as suggested by the preset mechanical reminders of Schoenberg et al., then after the scheduler of Martin et al. reviews the orders, and he moves an order so that the promise date is later than a request date, the system would then immediately generate an alert, according to Schoenberg et al., to alert the very scheduler who moved the data just seconds before.

The combination of the disclosures of the cited references would provide a system where "alerts" are generated for ordinary action items. A person of ordinary skill in the art would readily appreciate that indications of normal operational conditions are not alerts. Furthermore, combining the reminder of Schoenberg et al. with the tracking system of Martin et al. and the planning system of Dietrich et al. results in a system where planning events are intermittently scheduled and non-satisfaction of a planning event is recorded and reported to a customer. Such a system is not what is presently claimed and such a system is incapable of achieving the benefits of the present system.

(III) Lack of references teaching, showing, or disclosing all the elements of the present claims

Claim 9 calls for, in part, setting a proactive alert if a promise date associated with an order is later than a request date associated with the order, setting a reactive alert if a shipment date exists for the order and the request date of the order is less than a user-defined number of days prior to a current date, and displaying any promise and shipment

alerts by product category and type of alert. The art of record fails to teach or suggest such a system.

The rescheduling system of Martin et al. subjects the customer to accept a delivery date that is later than a requested delivery date. "The customer-expected delivery date is communicated to the customer, which then uses this date for purposes of on-time measurements." Martin et al., col. 4, lns. 41-44. That is, there is no alert but simply a rescheduling, and a customer is expected to tolerate delivery irregularities and use such irregularities to gauge supplier performance. A scheduler who schedules a delivery after a customer expected date, already knows that a delivery will be late. Martin et al., col. 3, lns. 61-66. In contrast, claim 9 calls for, in part, setting a proactive alert if a promise date is later than a request date. That is, if a product is promised by a date that is later than a customer request, the system corrects such events proactively such that the alert indicates that corrective action, if taken now, will prevent a delivery after a customer request. Such a system is simply not disclosed, taught, or suggested in the art of record.

With respect to Dietrich et al., the Examiner stated that, "Martin and Dietrich disclose all the limitations as set forth above [with respect to claim 1] but fail to explicitly disclose setting a reactive alert if a shipment date exists and the request date is less than a user-defined number of days prior to a current date." Office Action, supra at 5. The Examiner maintains that "Dietrich et al. teaches the use of a method of 'proactive' planning (as required by claim 1) in real-time (as required by claim 5) to provide advance warnings (see column 2, lines 58-61; see also column 6, lines 25 - column 7, line 14)." Id. at 4. Appellant does not necessarily disagree that Dietrich et al. teaches a method of proactive planning, however, that is not what is called for in claim 9.

Dietrich et al. does not provide a proactive alert associated with an order as called for in claim 9. Dietrich et al. discloses a system wherein, when an order cannot be produced by a desired date, a scheduling task can be scheduled to occur sometime before the desired date. See Dietrich, et al., col. 2, ln. 66 to col. 3, ln. 2. Claim 9 calls for setting and displaying proactive and reactive alerts specific to any order. Contrary thereto, Dietrich et al. teaches setting a scheduling date, wherein the entirety of the

schedule is reviewed and must be approved as compared to the order specific nature of the claimed invention. Id. Even combining the system of Schoenberg et al. with the systems of Dietrich et al. and Martin et al. does not achieve a system operable in accordance with claim 9. There is no proactive alert generated if a product promise date is later than a request date nor is there a display of any promise and shipments alerts by product category and type of alert.

Schoenberg et al. discloses a medical information system that receives patient data and information from various sources and displays such information in a variety of formats for use by members of a medical team. See Schoenberg et al., Abstract. Schoenberg et al. discloses generating operational reminders for each action item that is transmitted between different members of a patient's medical treatment team. See Schoenberg et al. col. 5, lns. 40-42. Schoenberg et al. further discloses that the system permits the entry of confirmatory information by respective members of a patient's medical treatment team and further, that if a treatment, i.e. medication, is not delivered as prescribed by the patient's doctor, an alarm is indicated to notify the medical team that an order, i.e. medicating of a patient, has not yet been carried out. See Schoenberg et al., col. 5, lns. 43-48. That is, Schoenberg et al. discloses that an alarm or an alert is generated when an action item that was already scheduled to occur, has in fact not occurred – a reactive alert.

Combining this alarm with the system of Martin et al. would result in a redundant system. That is, Martin et al. is directed to monitoring on-time delivery performance. Combining the alarm of Schoenberg et al. therewith would result in a system where, when a late delivery has occurred, even in light of generation of a new schedule as taught by Dietrich et al., an alarm is generated and indicates that a desired activity did not occur as scheduled.

Claim 9 calls for a system wherein products are scheduled and associated by order number, a promise date, a request date, and a shipment date. A proactive alert is set and displayed if a promise date is later than a request date and a reactive alert is set and displayed if the shipment date exists and the request date is less than a user-defined number of days prior to a current date. There is no teaching or suggestion in the art of

record for a scheduling system which displays proactive alerts and reactive alerts as defined in claim 9. As stated by Schoenberg et al., the alarm disclosed therein is generated and displayed <u>after</u> a medication time has been missed. Additionally, as the proactive activity of Dietrich et al. is to generate a schedule plan, there is no proactive alert associated with any order as presently claimed. Accordingly, the art of record fails to teach or suggest a proactive alert as claimed or a reactive alert as claimed. Furthermore, as the art of record fails to teach or suggest the alerts as claimed, there is no disclosure in the art of record that teaches or suggests displaying a type of alert as called for in claim 9.

For all the reasons set forth above, Appellant believes that the art of record fails to establish each requirement, as required under MPEP §2142, of substantiating a 35 U.S.C. §103(a) rejection of claim 9. As the art of record lacks the motivation to combine the references in the manner done by the Examiner, lacks a reasonable likelihood of success, and fails to teach or suggest each and every element of claim 9, Appellant believes claim 9, and those claims that depend therefrom, are patentably distinct over the art of record. Appellant believes claims 10-14 are in condition for allowance at least pursuant to the chain of dependency.

CLAIM 15

The Examiner also rejected claim 15 under 35 U.S.C. §103(a) as unpatentable over Martin et al. in view of Dietrich and further in view of Schoenberg et al. The Examiner stated that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Martin/Dietrich with reactive alerts as taught by Schoenberg, because the use of reactive alerts are helpful management tools for correcting problems when undesired activities have already occurred." <u>Office Action,</u> <u>supra at 5</u>. Appellant respectfully disagrees.

(I) Lack of motivation to combine references

Claim 15 calls for, in part, a sequence of instructions that cause a processor to query a database and compare promise dates to request dates for each order and check for the entry of a shipment date for each order, set a proactive alert if any promise date is

later than a request date, set a reactive alert if a shipment date exists for an order and the request date is less than a user-defined number of days prior to a current date, and display all proactive and reactive alerts by product/service category and type of alert. Claim 15 calls for setting and displaying proactive alerts and reactive alerts based on a promise date, a request date, a shipment date, and a current date for an order.

The Examiner's conclusion requires acceptance that one of ordinary skill in the art would believe that the system of Dietrich et al. will <u>fail</u>. Such an interpretation, that the system of Dietrich et al. is not adequate and does not generate a proactive plan, thereby requiring a reactive alert, renders Dietrich et al. unsuitable for its intended purpose. Further, no one would be doing this modification unless they had to present Application in front of them as a reference. That is, a person of ordinary skill in the art would not be motivated to combine a reactive alert with the proactive planning system of Dietrich et al. <u>unless it was assumed that Dietrich et al. would be inoperable</u> to proactively plan scheduling events to prevent incompleted action items. The Examiner's interpretation would require a person of ordinary skill in the art to disregard the novelty of Dietrich et al. and to assume that the proactive planning engine disclosed therein would actually fail for what it was intended to do. Appellant finds such an interpretation not only implausible, but unsupportable.

Dietrich et al. discloses a system whereby a planning event is scheduled to generate a new plan at sometime in the future. <u>Dietrich et al., Abstract</u>. A person of ordinary skill in the art would appreciate that the proactive planning for schedule generation would render the need for any alert, let alone a reactive alert, redundant. That is, the plan is generated and scheduled because an action item is scheduled to not occur by a desired due date if operation proceeds according to the present plan. Clearly, the newly generated plan would schedule the action item which necessitated the generation of the new plan to satisfy the due date. Alternatively, if the action item cannot be satisfied with the present plan, there is no need to provide an alert related thereto as the action item is already known to be unable to be produced by a desired date. Accordingly, the art of record does not include the requisite suggestion or motivation to combine the references in the manner done by the Examiner.

(II) Lack of reasonable expectation of success

Claim 15 calls for, in part, a sequence of instructions that cause one or more processors to set a proactive alert if any promise date is later than a request date, set a reactive alert if a shipment date exists for an order and the request date is less than a user-defined number of days prior to the current date, and displaying all proactive and reactive alerts by product/service category and type of alert.

As previously argued with respect to claims 1 and 9, the combination of the Martin et al. with Dietrich et al. and further modified by Schoenberg et al. fails to provide an expectation of success from the combination thereof. The system of Martin et al. is a system wherein a human order scheduler is repeatedly queried to accept or deny delivery dates and regardless of that decision, delivery performance is monitored from a customer's satisfaction rating. The addition of the proactive planning system of Dietrich et al. allows automatic scheduling of a planning event but does not indicate the delivery or production status of any one order. The "reminders" of Schoenberg et al. are not generated by any date comparison. Schoenberg et al. merely discloses generating reminders for each action item. Schoenberg et al. col. 5, lns. 41-42. As these reminders are generated after the entry of action items, any date associated therewith would be a delivery date. As such, there is no setting of a proactive alert if a promise date is later than a request date, along with the other limitations, as called for in claim 15. The combination suggested by the Examiner would merely require the order scheduler of Martin et al. to repeatedly clear reminders that do not indicate that a promise date is later than a request date but are merely mechanically created for each action item and do not indicate anything other than that an order has been placed. Such a system would clearly not achieve the benefits and success of the present invention.

(III) Lack of references teaching, showing, or disclosing all the elements of the present claims

Claim 15 calls for, in part, a sequence of instructions that cause a processor to set a proactive alert if any promise date is later than a request date, set a reactive alert if a shipment date exists for an order and the request date is less than a user-defined number of days prior to a current date, and display all proactive and reactive alerts by

product/service category and type of alert. As previously argued with respect to claim 9, Martin et al. and Dietrich et al., individually or in combination, fail to teach, suggest, or disclose any alert as defined by the present claims. Furthermore, Schoenberg et al. also fails to teach or suggest the type of alert called for in claim 15.

Dietrich et al. discloses a system that schedules a planning event for generation of a production schedule based on changes to the production data. The proactive scheduling of the system Dietrich et al. does not associate a cause of an intermediate planning event with an order associated therewith. That is, whereas the system of Dietrich et al. is configured to "monitor the quality of a plan", the present invention is configured to automatically optimize the quality of the plan through association of product specific data as called for in claim 15. Dietrich et al. fails to teach to suggest the setting of a proactive alert if any promise date is later than a request date <u>and</u> displaying all proactive alerts by product/service category and type of alert. Dietrich et al. discloses scheduling a proactive planning event. In contrast, claim 15 defines the proactive alert as an alert that is specific to an order and for displaying the product specific proactive alert. There is no such alert disclosed in the art of record. Additionally, the system of Martin et al. discloses that a human order scheduler dictate a delivery date later than a request date. <u>Martin et al. col. 3, lns. 61-66</u>. That is, there is no alert, or motivation to provide an alert, disclosed by Martin et al. when a person schedules the event that would necessitate the alert. Further, there is no displaying of all the proactive alerts as presently claimed.

Furthermore, as argued above with respect to claim 9, the alarm of Schoenberg et al. only occurs <u>after</u> the point in time when the medication should have been, but was not, administered. There is nothing proactive about such an alert. Appellant does not disagree that Schoenberg et al. discloses generating reactive alerts for action items that are not completed by a delivery date. <u>Schoenberg et al. col. 5, lns. 45-48</u>.

Claim 15 calls for setting a reactive alert if a shipment date exists for an order and the request date is less than a user-defined number of days prior to a current date. The alert of Schoenberg et al. is generated only after the action item has not been completed by the delivery date. Claim 15 defines the reactive alert as occurring, in part, when a request date is less than a user-defined number of days prior to a current date. That is, a

delivery has not yet been missed, but delivery cannot be made in accordance with the request date if the user-defined number of days is fixed. The alert of Schoenberg et al. indicates that a late delivery has already occurred.

Claim 15 allows a user-defined number of days between the current date and the request date before an alert is generated. Such an alert is not taught or suggested by the dosing alarm disclosed by Schoenberg et al. As such, setting a reactive alert by a computer data signal if a shipment date exists for an order and the request date is less than a user-defined number of days prior to the current date, as called for in claim 15, is also not taught, shown, or even suggested in the art of record.

Claim 15 further calls for the display of all proactive and reactive alerts by product/service category and type of alert. As previously argued with respect to claim 9, there is no support in the art of record for the display of the "type" of alerts. Schoenberg et al. only discloses one type of alert, and Martin et al. and Dietrich et al. do not disclose any alerts. Schoenberg et al. states that "[c]ompliance with orders is tracked as well, and the display screen can indicate an alarm or other warning indicator which notifies the medical team that an order has not yet been carried out." Schoenberg et al. col. 5, lns. 45-48 (emphasis added). That is, the alarm is provided when a medication that was supposed to be administered, has not been administered at the scheduled interval. The medication is already late. Granted, Schoenberg et al. does provide reminders before the action is required, but it only does so with a preset period of time. For example, if a doctor prescribes a certain patient be provided with a specific medication, a reminder is sent for each respective patient reminding the balance of the medical team that the prescription is expected to be administered. Schoenberg et al. col. 5, lns. 41-42.

Claim 15, however, calls for a proactive alert if "a promise date" is later than "a request date" for a given order. Appellant is unaware of any medication that is promised in response to a patient's requested date of delivery. Claim 15 also calls for setting a reactive alert if a shipment date exists for an order and the request date is less than a user-defined number of days prior to a current date. There is no such alert taught or suggested in Schoenberg et al. That is, as commonly known; medication is to be delivered according to a doctor's predetermined administering procedure or date. The patient is

medicated according to the doctor's advice, not the patients' request, and an alert is generated if the medication has not been administered in accordance therewith. This alert is reactive to a late order and there is absolutely no comparison of a promised date to a request date as called for in claim 15. Schoenberg et al. discloses no request date whatsoever, for if it did, it would be a "request" by it's customer -- the patient -- and that makes no sense in the context of medical information system of Schoenberg et al.

Accordingly, the step of setting a proactive promise alert if a promise date is later than a request dates for a given order, as called for in claim 15, is completely absent from the art or record. One reference, Martin et al., sets no alerts whatsoever; Dietrich et al. advances a scheduling event for an entire plan in response to an unacceptable delivery date; and Schoenberg et al. displays an alarm that is an indication that a desired activity has not taken place as scheduled. None of these disclosures, individually or in combination, achieves a system that operates according to the instructions called for in claim 15. That is, claim 15 calls for, in part, displaying a reactive alert is a shipment date exists for an order and a request date is less than a user-defined number of days prior to a current date. That is, the reactive alert called for in claim 15 occurs a user-defined number of days before a current date. Such a date dependant alert is neither disclosed nor suggested in the art of record.

As such, the art of record fails to teach, suggest, or disclose displaying the type of alert since only one type of alert is generated by the combination of these references -- a reactive alert. Minimally, three distinct elements of claim 15 are not taught, shown, or disclosed in the art of record. In addition thereto, as argued above, the references lack the motivation to combine the references in the manner done by the Examiner and lack a reasonable likelihood of success by any combination thereof.

For all the reasons set forth above, Appellant believes that the art of record fails to establish each and every requirement, as required under MPEP §2142, of substantiating a 35 U.S.C. §103(a) rejection of claim 15. As the applied art lacks the motivation to combine the references in the manner done by the Examiner, lacks a reasonable likelihood of success, and fails to teach or suggest each and every element of claim 15, Appellant believes claim 15, and those claims that depend therefrom, are patentably

distinct over the art of record. Accordingly, Appellant requests favorable action over the rejection of claim 15 over Martin et al., in view of Dietrich et al. and further in view of Schoenberg et al.

8. **CONCLUSION**

In view of the above remarks, Appellant respectfully submits that the Examiner has provided no supportable position or evidence that claims 1-21 are obvious under 35 U.S.C. §103(a). Accordingly, Appellant respectfully requests that the Board find claims 1-21 patentable over the prior art of record, direct withdrawal of all outstanding rejections, and direct the present application be passed to issuance.

General Authorization for Extension of Time

In accordance with 37 C.F.R. §1.136, Appellant hereby provides a general authorization to treat this and any future reply requiring an extension of time as incorporating a request therefore. As Appellant has previously paid for an appeal in the above-captioned matter, Appellant believes no fees are due for entry and consideration of this Appeal Brief.

Respectfully submitted,   Respectfully submitted,

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CLAIMS APPENDIX

1.   (Previously Presented) A method for reporting status of work in progress, comprising the steps of:

periodically querying an electronic database that contains data indicating an order number, a promise date, a request date, a shipment date, and a product category for a plurality of products/services offered;

comparing the promise dates and the request dates;

setting a proactive promise alert if a promise date is later than a request date for a given order; and

displaying the proactive promise alerts with the order numbers for those given orders that have a promise date that is later than their respective request date.

2.   (Original) The method of claim 1 further comprising the steps of:

setting a reactive shipment alert if the shipment date exists and the request date is less than a user-defined number of days prior to a current date; and

displaying any reactive shipment alerts with the order number together with the proactive promise alerts.

3.   (Original) The method of claim 2 wherein the user-defined number of days is equivalent to a number of days required for shipping a product to a customer.

4.   (Previously Presented) The method of claim 1 wherein the querying of the database is conducted automatically at regular time intervals, and wherein the step of displaying is further defined as displaying the proactive promise alerts with the order numbers by product category and type of alert.

5.   (Original) The method of claim 1 wherein the steps of the method are repeated automatically in real time.

6.   (Original) The method of claim 1 further comprising repeating the steps of the method every time a request for information is made.

7.   (Original) The method of claim 2 wherein the proactive promise alert allows for correction of a potential late shipment and the reactive shipment alert provides data to prevent future late shipments.

8.   (Original) The method of claim 1 further comprising the steps of reacting to a proactive alert by performing one of:

> modifying the promise date to coincide with the request date; and
>
> notifying a customer that the request date cannot be fulfilled as desired.

9.   (Original) A computer-readable medium having stored thereon one or more computer programs that, when executed by one or more computers, causes the one or more computers to:

> populate a database with data to include an order number, a promise date, a request date, a shipment date, and a product category for a plurality of orders;
>
> periodically query the database and compare promise dates to request dates;
>
> set a proactive alert if the promise date is later than a request date;
>
> set a reactive alert if the shipment date exists and the request date is less than a user-defined number of days prior to a current date; and
>
> display any promise and shipment alerts by product category and type of alert.

10.   (Original) The computer-readable medium of claim 9 wherein the user-defined number of days is equivalent to a number of days required for shipping a product to a customer or providing a service to a customer.

11.   (Original) The computer-readable medium of claim 9 wherein the query of the database is conducted automatically at regular time intervals.

12.   (Original) The computer-readable medium of claim 9 wherein the one or more computer programs cause the one or more computers to repeat the actions of claim 9 every time a request for information is made.

13.   (Original)   The computer-readable medium of claim 11 wherein the regular time interval is between 0 and 60 seconds.

14.   (Original)   The computer-readable medium of claim 11 wherein the regular time interval is greater than 1 minute.

15.   (Original) A computer data signal representing a sequence of instructions that, when executed by one or more processors, cause the one or more processors to:

        populate a database with an order date indicating a date an order is initially made, a request date indicating a date when a customer requests delivery of the order, a shipment date, when available, indicating a date when actual shipment will occur and a product/service category for each order for a product/service;

        query the database and compare promise dates to request dates for each order and check for the entry of a shipment date for each order;

        set a proactive alert if any promise date is later than a request date;

        set a reactive alert if a shipment date exists for an order and the request date is less than a user-defined number of days prior to a current date; and

        display all proactive and reactive alerts by product/service category and type of alert.

16.   (Original) The computer data signal of claim 15 wherein the user-defined number of days is equivalent to a number of days required for shipping a product/service to a customer.

17.   (Original) The computer data signal of claim 15 wherein the query of the database is conducted automatically at regular time intervals.

18.   (Original) The computer data signal of claim 15 wherein the computer data signal causes the one or more processors to repeat the actions of claim 15 every time a request for information is made.

19.   (Original) The computer data signal of claim 17 wherein the regular time interval is between 0 and 60 seconds.

20.   (Original) The computer data signal of claim 17 wherein the regular time interval is greater than 1 minute.

21.   (Original) The computer data signal of claim 15 wherein the computer data signal causes the one or more processors to allow user modification of the promise date to coincide with the request date in response to the proactive alert if the product/service is available by the request date.

<u>EVIDENCE APPENDIX</u>

-- None --

RELATED PROCEEDINGS APPENDIX

-- None --